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114.5 CMR 15.00: PROVIDER ASSESSMENT ON RESIDENTIAL SERVICES FOR THE
MENTALLY RETARDED

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15.01 General Provisions

(1) Scope and Purpose. 114.5 CMR 15.00 governs the collection of Assessments from providers of residential services for the mentally retarded, including Intermediate Care Facilities for the Mentally Retarded (ICF-MR) and community-based residences with 24 hour supports that are licensed or certified by the Department of Mental Retardation.

(2) Authority. 114.5 CMR 15.00 is adopted pursuant to M.G.L. c. 118G, §27.

(3) Effective Date. 114.5 CMR 15.00 is effective on August 1, 2005, subject to certifications as required by section 303 of Chapter 149 of the Acts of 2004.

15.02 Definitions

Meaning of Terms: As used in 114.5 CMR 15.00, unless the context otherwise requires, terms have the following meanings:

Assessment. The total payment due each quarter for each bed day.

Bed Day. A day of service provided to an individual residing at an ICF-MR or a community based residence with twenty-four (24) hour support that is licensed or certified by the Department of Mental Retardation. Community based residences include, group homes, shared living, and home sharing, for all payers. A Bed Day includes any day of service provided but payment for which has not yet been remitted by the payer source, including Non-Massachusetts payer sources.

CMS. The federal Centers for Medicare and Medicaid Services.

Department. The Massachusetts Department of Mental Retardation.

Division. The Division of Health Care Finance and Policy established under M.G.L. c. 118G or its designated agent.

MR Provider A private or public entity that operates an intermediate care facility for the mentally retarded, or a private or public entity that operates a community based residence with 24 hour supports that is licensed or certified in accordance with M.G.L. c. 19B § 15.

Fiscal Year (FY). The Commonwealth Fiscal Year from July 1 through June 30.

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15.03 Calculation of Per Day Fee

- (1) The Division will calculate the Per Day Fee by dividing
- (a) an amount estimated to equal six percent of the total gross revenues generated by all MR Providers, by
 - (b) the estimated total statewide bed days for that Fiscal Year.

For the purposes of these calculations, the Division will use data provided by the Department of Mental Retardation or by MR Providers.

- (2) Effective July 1, 2005, the Per Day Fee is \$13.88.
- (3) If the Division determines that the total amount of MR Provider Assessment revenue will be significantly different than estimated, it may recalculate the Per Day Fee during the Fiscal Year. The Division may change the Per Day Fee prospectively by administrative bulletin to reflect such changes based on the method described above.

15.04 Payment of Assessment

- (1) Quarterly Assessment. Each MR Provider will pay a quarterly Assessment to the Division. Each MR Provider will determine the amount of the Assessment owed for each quarter by multiplying (1) its total Bed Days by (2) the Per Day Fee established by the Division pursuant to 114.5 CMR 15.03.

- (2) Assessment Form. Each MR Provider must submit its Quarterly Assessment on a form prepared by the Division. Each MR Provider must report quarterly its total Bed Days. The failure to receive the form will not stay the obligation to remit the Assessment.

- (3) Due Dates. The MR Provider Assessment and the Assessment form are due according to the following schedule:

Assessment period	Form Due Date	Payment Due Date
January 1 – March 31	April 20	May 15
April 1 – June 30	July 20	August 15
July 1 – September 30	October 20	November 15
October 1 – December 31	January 20	February 15

- (a) If a due date falls on a Saturday, Sunday, or Holiday, the due date will be the next business day.
 - (b) In the event of a closure, a MR Provider must pay the Assessment within thirty (30) days of the date of closure.
- (4) Administration. The Division will inform MR Providers by administrative bulletin of the procedures for the payment and collection of the Assessment. The Division will update these procedures from time to time by administrative bulletin.
- (5) Interest and Late Fees. The Division may assess interest and late fees on unpaid liabilities. If a MR Provider fails to remit an Assessment due, the Division may assess

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interest at up to 1.5% per month on the outstanding balance, or 18 percent annually. The Division will calculate the interest from the due date. The Division may also impose a late fee of up to 5% per month of the outstanding balance.

(6) Assessment Revenue. The total amount of Assessments collected, any federal financial participation generated from the payments to MR Providers based on the collected Assessments, penalties, and any interest earned will be credited to an account established within the Uncompensated Care Trust Fund.

(7) Enforcement Provisions.

- (a) In addition to interest and late fees imposed pursuant to 114.5 CMR 15.04(5), the Division may notify the Department to take appropriate actions, including the revocation of licensure or certification for failure to remit delinquent Assessment payments.
- (b) For unpaid liabilities greater than one hundred twenty (120) days overdue, the Division may intercept payments from other state agencies in accordance with the regulations of the Office of the State Comptroller, 815 CMR 9.00: Debt Collection.

15.05 Reporting Requirements

(1) General. Each MR Provider will file or make available information which is required or which the Division deems reasonably necessary for calculating and collecting the Assessment.

(2) Required Reports. Each MR Provider must file required reports and forms with the Division. Each MR Provider must submit any additional documentation requested by the Division to verify the accuracy of the data submitted.

(3) Audit. The Division may inspect and copy the records of a MR Provider for purposes of auditing its calculation of the Assessment.

- (a) If the Division determines that a MR Provider has either overpaid or underpaid the Assessment, it will notify the MR Provider of the amount due or refund the overpayment.
- (b) The Division may offset overpayments against amounts due the Division for the Assessment.
- (c) If a MR Provider is aggrieved by a decision of the Division as to the amount due, it may file an appeal to the Division of Administrative Law Appeals within 60 days of the date of the notice of underpayment or the date the notice is received, whichever is later. The filing of an appeal will not toll the collection of interest and penalties.

(4) Penalties. The Division may impose a per day penalty of \$100 per day if a MR Provider fails to submit required reports or furnish other documentation requested under this regulation by the dates specified in 114.5 CMR 15.04(3) or as specified in the Division's Administrative Bulletins.

114.5 DIVISION OF HEALTH CARE FINANCE AND POLICY

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15.06 Other Provisions

(1) Severability. The provisions of 114.5 CMR 15.00 are severable. If any provision or the application of any provision is held to be invalid or unconstitutional, and such invalidity will not be construed to affect the validity or constitutionality of any remaining provisions of 114.5 CMR 15.00 or the application of such provisions.

(2) Administrative Information Bulletins. The Division may issue administrative information bulletins to clarify policies, update administrative requirements and specify information and documentation necessary to implement 114.5 CMR 15.00.

REGULATORY AUTHORITY

114.5 CMR 15.00 M.G.L. c. 118G.